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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/20/99 06/03/99 CHIEF

1-2928

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09/32/0820

EXAMINER

NGUYEN, T

ART UNIT

PAPER NUMBER

3726

60

DATE MAILED:

08/29/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary

Application No.

09/325,311

Applicant(s)

Shoup

Examiner

Trinh Nguyen

Group Art Unit

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☒ Responsive to communication(s) filed on Jun 12, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-17 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-17 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 2-6, 7 and 8** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2: in lines 7 & 8, is the phrase “said security bars” referred to as the “transverse security bars” or the “upright security bars”?

In claim 3: in line 4, the phrase “said stiles” should be rewritten as “said stile members”.

In claim 6: in line 2, the phrase “said single, flat, sheet metal strip” should be rewritten as “said flat sheet metal strip”.

In claim 7: in line 5, the phrase “said hollow perimeter segment members” should be rewritten as “said perimeter segment members”.

In claim 8: in line 2, the phrase “said hollow segment members” should be rewritten as “said perimeter segment members”; and in line 3, the phrase “said hollow perimeter segment members” should be rewritten as “said perimeter segment members”.

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Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1 and 7** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Lee** (US 5,862,645) in view of **Bruhnke et al.** (US 4,470,717).

Lee teaches a method of fabricating a metal security frame comprising the steps of: forming four hollow segments (122) having a plurality of receiving openings (1221); and placing a plurality of security bars (13, 14) within the receiving openings to form a complete security frame. However, **Lee** does not teach the step of spot welding the ends of the security bars to the hollow segments.

Bruhnke et al. clearly teach that spot welding metal frame members so as to form a stronger bond between members is an old and conventional technique. It would have been obvious to one of ordinary skill in the art at the time the invention was made to spot welded the security bars to the hollow segments, as taught in **Bruhnke et al.**, in order to provide a more efficient bond between members; thus, reduce manufacturing cost.

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5. **Claims 2 and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Lee** in view of **Bruhnke et al.**, and further in view of **Goldsmith** (US 2,568,148).

Lee/Bruhnke et al. teaches the above limitations except for forming a flange member in which the security bars reside in contact therewith.

Goldsmith teaches a frame member (11) having a flange member (19) and a receiving aperture (15) therefrom, wherein the security bar (10) is inserted in the receiving aperture so that the security bar resides in contact with the flange member as shown in Figures 4-8. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the frame members of Lee/Bruhnke et al. to include the step of forming a flange member in which the security bars reside in contact therewith, as taught by Goldsmith, in order to create a better fit between the members thereof.

6. **Claims 4, 5, 11, 14, and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over **the references as applied to claims 2 and 13 above**, and further in view of **Stern** (US 5,018,263).

The references as applied to claims 2 and 13 above, teach the above limitations except for the steps of “punching”, “cutting”, “rolling”, “crimping”, and “bending” a sheet metal strip to form mitered corners between the frame members.

Stern teaches a method for making such mitered corners by “punching”, “cutting”, “rolling”, “crimping”, and “bending” a sheet metal strip (10) as shown in Figures 1-9. It would have been obvious to one of ordinary skill in the art at the time the invention was made to reshape

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a metal strip into mitered corners by performing those steps as taught in Stern, in order to provide a more efficient manufacturing steps in which a quality frame member can be manufactured at a low cost.

7. **Claims 6, 12, 16, and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 5, 11, and 15 above, and further in view of Janotik et al. (US 5,549,352).

The references as applied to claims 5, 11, and 15 above, teach the above limitations except for providing an access opening within the frame members so that the spot welding tool can be inserted therein to weld the members together.

Janotik et al. teach a method of constructing a frame member where access opening for the spot welding tool is provided. It would have been obvious to one of ordinary skill in the art at the time the invention was made to construct an access opening within the frame members, as taught in Janotik et al., in order to allow the insertion of the spot welding tool.

With respect to claim 16, whether the steps for “inserting” and “withdrawing” internal spot welding electrodes are conducted in a particular order such as prior to or after is a matter of design choice wherein no stated problem is solved, or any new or unexpected result achieved, and it appears that the invention would perform equally well with the internal spot welding electrodes conducted in any order.

With respect to claims 6 and 12, the steps “inserting internal spot welding tips...”, “bringing external spot welding tips...”, and “passing electric currents between said internal and

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said external spot welding tips...”, as such, are inherent steps within Janotik et al.’s method, since these steps are the necessary steps that one must carry out when performing a spot welding technique.

Allowable Subject Matter

8. **Claims 3, and 8-10** would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments filed 6/12/00 have been fully considered but they are not persuasive.

10. In response to Applicant’s argument that Bruhnke is not directed to the field of security door fabrication, but rather to the field of vehicle frame structure. The Examiner disagrees. The reference Bruhnke is merely used to show the teaching of using an old and well known welding technique, such as spot welding, to join any structural frame members together. Furthermore, whether the structural frame members are from the field of security door or the field of vehicle frame structure is irrelevant, since one of ordinary skill in the art would have found obvious to use a known welding technique, which depends upon cost and material requirements as well as time constraints of the operation, best suited to the particular fabrication of a structural member, such as one claimed by the Applicant.

11. In response to applicant's argument that the reference Lee fails to show certain features of applicant’s invention, it is noted that the features upon which applicant relies (i.e., since there is

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no flat surface contact between the security bars (13 and 14) and the frame (122) of Lee) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. *In re Van Guens*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

12. In response to applicant's argument that there is no suggestion to combine the reference Goldsmith, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the Goldsmith reference is merely used to show the teaching of fabricating a frame member (11) having a flange member (19) and a receiving aperture (15) therefrom, wherein the security bar (10) is inserted in the receiving aperture so that the security bar resides in contact with the flange member as shown in Figures 4-8. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the frame members of Lee/Bruhnke et al. to include the step of forming a flange member in which the security bars reside in contact therewith, as taught by Goldsmith, in order to create a better fit between the members thereof.

13. In response to applicant's argument that the Janotik reference is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not,

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then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). In this case, the Janotik reference is in the same field of endeavor as Applicant, i.e. the field of fabricating structural frame members.

Furthermore, the Janotik reference is reasonably pertinent to a problem with which Applicant was concerned, i.e. providing access openings for the insertion of tool such as a spot welding tips (see lines 15-23 of col. 5). Therefore, the reference Janotik is from an analogous art. One of ordinary skill in the art, when faced with Applicant's problem, would have sought out reference, such as Janotik, that pertain to Applicant's problem.

14. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Trinh Nguyen** whose telephone number is (703) 306-9082.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1148.

TTN

August 25, 2000

J. C. A. R. h
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